

HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES – Draft
June 16, 2016

Members Present

Bryan Provencal, Chairman
Bill O'Brien, Vice Chairman
Norma Collins, Clerk
Ed St. Pierre

Others Present

Joan Rice, Secretary

Chairman Provencal called the meeting to order at 7:00 p.m.

The Pledge of Allegiance was said.

Chairman Provencal introduced the members of the Board.

PETITION SESSION

15-16... The petition of June F. Kulakowski for property located at Lot #9 Inn Ave. seeking relief from Article 2.3.7 C-4 to allow a portion of the primary structure within the 12 ft. buffer setback. This property is located on Map 126, Lot 9 and in the RCS Zone.

At this time Mr. St. Pierre stepped down from the Board.

June Kulakowski, petitioner, came forward. She said there is a house closer to the marsh between this property, Lot #9, and the marsh. She is asking for relief of the 12' setback from the 50' buffer line that was adopted in March 2015. Ms. Kulakowski said the design and architecture will compliment the area. She said previously this property had all permits in place. Approvals have expired and to reactivate approval it is now under the 12' setback rule. Ms. Kulakowski went through the five criteria and said she felt they had been met.

Questions from the Board

Ms. Collins asked how close the property is to the 12' setback. Ms. Kulakowski said five feet.

Mr. O'Brien said there is no drawing showing the 12' buffer. Ms. Kulakowski presented another drawing showing this.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Ms. Collins asked if the left rear of the house is in the 12' buffer. Ms. Kulakowski replied that it is. Ms. Collins asked about the dimensions of the house. Ms. Kulakowski said it is 24' x 32'.

Chairman Provencal said there is an entire house next to this that is completely in the buffer. Therefore, he is not concerned.

Moved by Chairman Provencal, seconded by Mr. O'Brien, to grant Petition 15-16 subject to approval by the Conservation Commission.

Chairman Provencal asked the Board if they felt the five criteria had been met. All members agreed that they had.

Vote: 3 yes, 0 no. Motion passed unanimously.

At this time Mr. St. Pierre stepped up to the Board.

16-16...The petition of Laurie Felter for property located at 6 Witch Island Way seeking relief from Article VI 6.4.2 for a parking area to be 9' x 18'. This property is located on Map 183, Lot 1 and in the RB Zone.

Laurie Felter representing the petitioner came forward. Ms. Felter said they are in a 10-unit condo association with its own private road. Ms. Felter said that early in construction the owner requested that a room and bathroom be installed shortening the garage area to 12'5" x 11' x 7". Unfortunately neither the builder or the Building Department informed the owner that this size did not meet the zoning requirement of 9' x 18'. No notice was given until the final inspection for the Certificate of Occupancy. Ms. Felter went through the five criteria and said she felt they had been met.

Questions from the Board

Mr. St. Pierre asked if the petitioner can fit her car in the garage. Ms. Felter replied that she can. Mr. O'Brien noted that the garage is over five feet short in length. He asked why they could not take one of the 23 spaces (where only 22 are required) and use it. Ms. Felter said this would require going before the Planning Board, etc. and be very inconvenient.

Chairman Provencal said this was something missed by everyone until the Certificate of Occupancy inspection.

Comments from the Audience

George Wygand noted that if someone with a bigger car moved in, the garage does have a cantilever of 2 feet.

Back to the Board

Mr. O'Brien said the garage is not 9' x 18' and this is the first time somebody has asked for this. There is also adequate space somewhere on this plot plan that can be used.

Ms. St. Pierre said he did not have an issue with the person living there now, but he does have a problem with the next owner. Ms. Felter said this is a family-owned association and she does not see anyone other than family buying this home in the future.

Mr. O'Brien asked why one of the extra parking spaces could not be granted to this unit. Ms. Felter said this would require another site plan, going back to the Planning Board and having Town Attorney review.

Moved by Mr. St. Pierre to deny Petition 16-16 on the basis of lack of hardship.

Ms. Collins said once you grant a variance like this everyone will want one. She said she did not hear the Building Department admitting any culpability.

Chairman Provencal said a building permit cannot be granted if it is illegal. This was a mistake by the Building Department.

Mr. O'Brien said if this petition is postponed to the next meeting there will be a 5-member Board. He said he would like to have input from the Building Department about what went wrong. He said he would also like to see the plan that was submitted to the Building Department that changed the open space.

Mr. St. Pierre withdrew his motion.

Moved by Mr. O'Brien, seconded by Mr. St. Pierre, to postpone the hearing of Petition 16-16 until the July meeting at which time it will be first on the Agenda.

Vote: 4 yes, 0 no. Motion passed unanimously.

17-16...The petition of Michael D. Smith for property located at 515 Winnacunnet Rd., #9 seeking relief from Article VIII as to 8.2.3 and Article IV as to 4.5.2 and footnote #12 to raze and remove existing one-story cottage and replace it with a two-story cottage which will require setback relief. This property is located on Map 222, Lot 118-9 and in the RB Zone.

Michael Smith, petitioner, came forward. Mr. Smith said he wants to remove the existing one-story cottage which was built in the 1950's and replace it with a two-story cottage. Mr. Smith went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. St. Pierre asked if Mr. Smith was requesting rear setback relief. Mr. Smith said he was. Ms. Collins asked if there was any involvement in the wetlands. Mr. Smith said there was none. Mr. O'Brien asked if the balcony begins at the 7' setback. Mr. Smith said yes.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Mr. St. Pierre asked about the deck. Mr. O'Brien said he did not agree about the deck because it would be closer than 7 feet to the property line and there is plenty of room out front.

Mr. St. Pierre asked if Mr. Smith was including an AC and heating unit put in the jog space. Mr. Smith said he was.

Moved by Mr. St. Pierre, seconded by Ms. Collins, to grant Petition 17-16 without the deck on the back, but an AC/heating unit can be located on the back of the building.

Chairman Provencal asked the Board if they felt the five criteria had been met. All members agreed that they had.

Vote: 4 yes, 0 no. Motion passed unanimously.

18-16...The petition of Janis Diamond for property located at 29 Bonair Ave. seeking relief from Article 4.6 to continue current renovation and create an apartment – studio with one bath and kitchenette. This property is located on Map 222, Lot 16 and in the RB Zone.

Petitioner was not present.

Moved by Mr. O'Brien, seconded by Mr. St. Pierre, to postpone Petition 18-16 until the July meeting at which time it will be second on the Agenda.

Vote: 4 yes, 0 no. Motion passed unanimously.

BUSINESS SESSION

Appointment of Alternates

Moved by Mr. O'Brien, seconded by Mr. St. Pierre, that James Scully and Ken Lessard be sworn in as Alternates to the Zoning Board of Adjustment for three-year terms.

Vote: 4 yes, 0 no. Motion passed unanimously.

Adjournment

Moved by Ms. Collins, seconded by Mr. O'Brien, to adjourn the meeting at 8:14 p.m.

Vote: 5 yes, 0 no. Motion passed unanimously.

Respectfully submitted,

Joan Rice
Secretary